

## REMARKS

The Examiner objected to the Abstract for exceeding 150 words. The Applicant has amended the Abstract to comply with the MPEP.

The Examiner rejected claims 1-24 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner is of the opinion that the tissue is a limitation of the claims. The Applicant has amended the claims to recite "an electrode adapted to be placed in contact with a cornea" as suggested by the Examiner. The Applicant submits that the claims comply with 35 U.S.C §§101 and 112.

The Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Hood in view of Strul. The claims recite an RF circuit that is calibrated to provide an actual power curve within +/- 10% of a desire power curve. Strul does not disclose a circuit that is pre-calibrated to provide the recited limitations. Strul discloses a system that requires a feedback system to regulate the power delivered to tissue. This approach is the exact opposite of the claimed invention.

As discussed on page 18 of the above entitled application, the electrical circuit is designed and calibrated in a way such that the actual power provided to the cornea is within +/- 10% of the desired power curve. Thus, even though the tissue impedance may change, the circuit is calibrated in a way that it still provides power within +/- 10% of the delivered curve. The technique disclosed and claimed in the above entitled application is a calibration technique performed at the manufacturer's site. This is to be distinguished from Strul which discloses a feedback system that compensates for variations in temperature while a medical

procedure is being performed. Strul does not disclose or suggest calibration of the circuit to insure that the actual power is within +/- 10% of the desired power over an operating range of tissue impedance. Pre-calibrating the circuit avoids the complexities of the feedback system required in Strul. For these reasons, the Applicant submits that the combination of Hood and Strul do not render unpatentable claims 1-24 of the above entitled application.

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the objection and rejections is requested. Allowance of claims 1-24 at an early date is solicited.

Respectfully submitted,

IRELL & MANELLA LLP

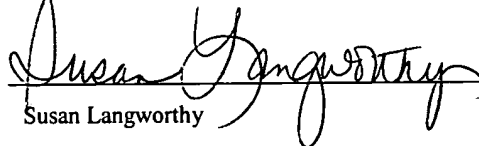
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I hereby certify that this correspondence is being deposited in the U.S. Mail, First Class, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450, on October 5, 2005.

  
Susan Langworthy

Oct 5, 2005  
Date